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DEC 24 2002

OFFICE OF PETITIONS

In re Application of
Jofuku, et al.
Application No. 08/879,827
Filed: June 20, 1997
Attorney Docket No. 023070067210

DECISION ON PETITION

This is a decision on the petition filed May 31, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely file a Appeal Brief. A Notice of Appeal was filed with a petition to revive under 37 CFR 1.137(b) on November 24, 2000.¹ The application had previously gone abandoned for failure to timely file a reply to a non-final Office action mailed May 11, 2000. The petition was granted in a decision mailed on March 29, 2001. Accordingly, applicant had two months from the mail date of the decision, or until May 29, 2001, to file an Appeal Brief in triplicate. No Appeal Brief with an extension of time having been received, the above-identified application became abandoned on May 30, 2001. A Notice of Abandonment was mailed on February 13, 2002.

With the instant petition, petitioner filed an amendment and a Terminal Disclaimer in response to the May 11, 2000 Office action. In addition, petitioner paid the petition fee and made the proper statement of unintentional delay as required by 37 CFR 1.137(b).

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$55 extension of time fee submitted with the petition on May 31, 2002 was subsequent to the maximum period obtainable for reply (October 29, 2001), this fee will be refunded to petitioner under separate cover.

¹ The Notice of Appeal was proper as the claims had been twice rejected. See 37 CFR 1.191(a).

The application file is being forwarded to Technology Center 1600 for consideration of the amendment and the Terminal Disclaimer, both filed May 31, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
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REQUEST FOR PATENT FEE REFUND

1 Date of Request: <u>12/23/02</u>		2 Serial/Patent # <u>081879,827</u>		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
<input type="checkbox"/>	Filing			\$
<input type="checkbox"/>	Amendment			\$
<input checked="" type="checkbox"/>	Extension of Time	27	5/31/02	\$ 55.00
<input type="checkbox"/>	Notice of Appeal/Appeal			\$
<input type="checkbox"/>	Petition			\$
<input type="checkbox"/>	Issue			\$
<input type="checkbox"/>	Cert of Correction/Terminal Disc.			\$
<input type="checkbox"/>	Maintenance			\$
<input type="checkbox"/>	Assignment			\$
<input type="checkbox"/>	Other			\$
		7 TOTAL AMOUNT OF REFUND	\$ 55.00	
		8 TO BE REFUNDED BY:		
<input checked="" type="checkbox"/>	Treasury Check			
<input type="checkbox"/>	Credit Deposit A/C #:			
<input checked="" type="checkbox"/>	No Fee Due (Explanation):			
<p>Applicant filed an extension of time beyond the maximum period obtainable for seq 17.</p>				
11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME: <u>Cliff Congu</u>		TITLE: <u>Petitions Attorney</u>		
SIGNATURE: <u>Cliff Congu</u>		PHONE: <u>305-0272</u>		
OFFICE: <u>Petitions</u>		*****		
***** THIS SPACE RESERVED FOR FINANCE USE ONLY *****				
APPROVED: <u>Alicia Miller</u>		DATE: <u>12/04/02</u>		

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